



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,441	01/04/2001	Shinji Yoshihara	39303.20219.00	3382
25224	7590	05/24/2006	EXAMINER	
MORRISON & FOERSTER, LLP 555 WEST FIFTH STREET SUITE 3500 LOS ANGELES, CA 90013-1024			NGUYEN, HAI V	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/754,441

Applicant(s)

YOSHIHARA ET AL.

Examiner

Hai V. Nguyen

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/14/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the communication received on 21 February 2006.
2. Claims 1-34 are cancelled.
3. Claims 35-41 are presented for examination.

Specification

4. The textual portion of the specification is replete with grammatical and idiomatic errors too numerous to mention specifically. The specification should be revised carefully.
5. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks TM, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims (i.e., provide proper antecedent basis for "the" and "said" within each claim). Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.
6. Claim 36 is objected to because of claim 36 depending on claim 1 which has been cancelled. Appropriate correction is required.
7. Claims 40, 41 are objected to because claims 40, 41 depending on claim 5 which has been cancelled. Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claim 35 recites the limitation "the music conducting work" in claim 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 35-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Connick, Jr. US patent # 6,348,648 B1** in view of **Hara et al. US patent # 6,438,611 B1**.

13. As to claim 35, Connick discloses a server apparatus (*Fig. 1, box 102*) communicably connected to a plurality of client apparatuses through a communication network, for performing a music composing work according to data input at the plurality of the client apparatuses to thereby create music data, the server apparatus comprising:
a data storage section (*Fig. 2, boxes 202, 220*) that stores music data under the music conducting work; However, Connick does not explicitly disclose an information transmitting section that transmits display information to each of the client apparatuses

Art Unit: 2142

such that each client apparatus displays a composing screen according to the transmitted display information.

In the same field of endeavor, Hara discloses an information transmitting section that transmits display information (*setting information*) to each of the client apparatuses (*an accessing terminal*) such that each client apparatus displays a composing screen according to the transmitted display information (*Fig. 12, step 161*).

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention made to have incorporated Hara's teachings of transmitting the setting information to the accessing members (*Hara, Fig. 12, col. 20, lines 28-38*) with the teachings of Connick, for the purpose of *allowing a conductor or composer to interactively modify a musical score and to transmit the modifications to individual musicians or selected groups of musicians in an orchestra (Connick, col. 1, lines 15-22) and allowing for the musicians to comfortably travel to and from rehearsals, recordings and performances with the device (Connick, col. 3, lines 42-55)*.

Hara-Connick discloses a data receiving section (*Hara, Fig. 11, step 152*) that receives from each client apparatus composing data, which is generated by the client apparatus based on data input to the composing screen displayed according to the display information, and which represents either of a partial composing content or partial editing content of the music data (*Hara, Fig. 11, step 152*);

Hara-Connick discloses a composing and editing section that performs the music composing work including input and edition of the music data according to the

Art Unit: 2142

composing data received from each client apparatus to thereby update the music data stored in the data storage section (*Connick, Figs. 3a, 5-7*); and

Hara-Connick discloses a music data transmitting section that responds to an updating request from the client apparatus for transmitting the updated music data stored in the data storage section as display information to the client apparatus such that the client apparatus can display the updated music data on the composing screen (*Connick, Figs. 3a, 5-7; Hara, Fig. 11, box S156; Fig. 12, box S171*).

14. As to claim 36, Hara-Connick discloses including a second music data transmitting section that responds to a data save request from the client apparatus for converting the music data stored in the data storage section from a data format which is editable to another data format which is performable, and transmitting the music data of said another data format to the client apparatus (*Connick, Figs. 3a, 5-7; Hara, Fig. 11, box S154; Fig. 12, box S169*).

15. As to claim 37, Hara-Connick discloses, wherein the information transmitting section further transmits chat screen information to the respective client apparatuses such that each client apparatus can display a chat screen (*Hara, Fig. 22, box 288*) for chatting with other client apparatuses, the server apparatus further comprising:

a registering section that registers conversation data (*Hara, Fig. 10, boxes S141, S142*);

a conversation data update section that receives from the client apparatus the conversation data which is generated according to data input to the chat screen which is displayed based on the chat screen information, and that updates the conversation data

Art Unit: 2142

registered in the registering section each time the conversation data is received (*Hara, Figs. 8-12, 15-16, 22, boxes S141, S142*); and

a conversation data transmitting section that responds to a chat update request from the client apparatus for transmitting the updated conversation data registered in the registering section (*Hara, Figs. 8-12, 15-16, 22, boxes S141, S142*).

16. Claim 38 corresponds to the computer readable medium claim of claim 35; therefore, it is rejected under the same rationale as in claim 35.

17. Claim 39 corresponds to the server-side apparatus claim of claim 35 but on the client-side apparatus of the system; the functions on server and client are exchangeable; therefore, it is rejected under the same rationale as in claim 35.

18. Claim 40 corresponds to the server-side apparatus claim of claim 36 but on the client-side apparatus of the system; the functions on server and client are exchangeable; therefore, it is rejected under the same rationale as in claim 36.

19. Claim 41 corresponds to the server-side apparatus claim of claim 37 but on the client-side apparatus of the system; the functions on server and client are exchangeable; therefore, it is rejected under the same rationale as in claim 37.

20. Further references of interest are cited on Form PTO-892, which is an attachment to this action.

Response to Arguments

21. Applicant's arguments received on 21 February 2006 have been considered but are not persuasive.

22. In the remark, Applicant argued in substance that:

Point (A), the prior art do not disclose *"the joint/group composition of music"*.

As to point (A), Connick discloses in Abstract that, *"A system and method for coordinated music composition and display among musicians is presented"*.

Conclusion

23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2142

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai V. Nguyen whose telephone number is 571-272-3901. The examiner can normally be reached on 6:00-3:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hai V. Nguyen
Examiner
Art Unit 2142



THO AL-VU
P-E
